

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 7
	:	
RAFAEL LOZADA,	:	Case No. 17-11721-SMB
	:	
Debtor.	:	
	:	
	:	
RAFAEL LOZADA,	:	
	:	
Plaintiff,	:	
	:	Adv. Pro. No. 17-01116-MKV
v.	:	
	:	
EDUCATIONAL CREDIT	:	
MANAGEMENT CORPORATION,	:	
	:	
Defendant.	:	
	:	
	:	
	:	

PRE-TRIAL SCHEDULING ORDER

WHEREAS, Rafael Lozada (the “Debtor-Plaintiff”) commenced this adversary proceeding against United States Department of Education and Navient by a Complaint filed on August 31, 2017 (the “Complaint”) [ECF No. 1];

WHEREAS, on October 2, 2017, the defendant, Navient, filed the Answer to the Complaint [ECF No. 4];

WHEREAS, on October 13, 2017, the defendant, Educational Credit Management Corporation, filed the Answer to the Complaint [ECF No. 7];

WHEREAS, on October 25, 2017, the Court entered a Consent Order, which (I) authorized Educational Credit Management Corporation (together with Debtor-Plaintiff, the “Parties”) to intervene in the adversary proceeding pursuant to Fed. R. Civ. P. 24(a) and (B), (II) dismissed

defendants, United States Department of Education and Navient from the adversary proceeding, and (III) designated the form of caption [ECF No. 12];

WHEREAS, on January 17, 2018, the Court so ordered a Memorandum Endorsed Order, which directed that the Joint Pre-Trial Order was due on January 31, 2018 and the Final Pre-Trial Conference was rescheduled for February 6, 2017 at 10:00 a.m. [ECF No. 13];

WHEREAS, on February 1, 2018, the Court entered a Scheduling Order, which scheduled a Pre-Trial Conference to be held on April 6, 2018 at 10:00 a.m. before the Honorable Stuart M. Bernstein, United States Bankruptcy Judge, at the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004, Courtroom Number 723 [ECF No. 14];

WHEREAS, on April 5, 2018, the Court entered a Second Amended Scheduling Order, which scheduled a hearing to be held on May 24, 2018 at 10:00 a.m. before the Honorable Stuart M. Bernstein, United States Bankruptcy Judge, at the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004, Courtroom Number 723 [ECF No. 16];

WHEREAS, on May 23, 2018, Educational Credit Management Corporation emailed a proposed joint pre-trial order (the “Proposed Pre-trial Order”) to the Court;

WHEREAS, on May 24, 2018, the Court entered a Notice of Case Reassignment from the Honorable Stuart M. Bernstein to the Honorable Mary Kay Vyskocil, United States Bankruptcy Judge [ECF No. 19]; and

WHEREAS, on June 26, 2018, the Court held a pre-trial conference, at which the Court advised the Parties that the Proposed Pre-trial Order does not provide the requisite specificity

pertaining to the anticipated proofs at trial, including exhibits, as required by this Court and the Honorable Stuart M. Bernstein's Individual Practice Rules;

NOW, THEREFORE, it is hereby **ORDERED**, that:

1. The Parties shall comply with all pre-trial obligations pursuant to the Local Bankruptcy Rules for the Southern District of New York, this Court's Individual Practice Rules, and this Pre-Trial Scheduling Order, including:

- a. The Parties shall exchange pre-marked exhibits by no later than 5:00 p.m. on Wednesday, July 18, 2018;
 - b. The Parties shall submit to the Court a proposed joint pre-trial order by no later than 5:00 p.m. on Wednesday, July 25, 2018;
 - c. The Parties shall file motions *in limine*, if any, by no later than 5:00 p.m. on Wednesday, July 25, 2018, with responses, if any, due by no later than 12:00 p.m. on Wednesday, August 1, 2018;
 - d. The Parties shall provide the Court with two sets of pre-marked exhibits, bound in a loose-leaf binder with a table of contents by no later than 5:00 p.m. on Friday, August 17, 2018. Exhibits should be separated by exhibit tabs or otherwise labeled such that the exhibit number or letter is apparent.
2. The Parties shall appear for a final pre-trial conference on August 2, 2018 at 10:00 a.m. before the Honorable Mary Kay Vyskocil, United States Bankruptcy Judge, at the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004, Courtroom Number 501.
3. The trial will proceed on August 21, 2018 at 9:30 a.m. before the Honorable Mary Kay Vyskocil, United States Bankruptcy Judge, at the United States Bankruptcy Court

for the Southern District of New York, One Bowling Green, New York, New York
10004, Courtroom Number 501.

This Court retains jurisdiction with respect to all matters arising from or related to the
implementation of this order.

Dated: New York, New York
June 29, 2018

s/ Mary Kay Vyskocil
Honorable Mary Kay Vyskocil
United States Bankruptcy Judge